



ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Memorandum

To: Committee on Administration and Management
From: Funmi Olorunnipa (Staff Counsel)
Date: November 1, 2013
Re: Revised Draft Recommendation for GPRAMA Project

[The following revised draft recommendation is based on the GPRA Modernization Act of 2010: Examining Constraints To, and Providing Tools For, Cross-Agency Collaboration Project and related draft report and recommendations by Professor Jane Fountain of the University of Massachusetts Amherst. The changes in this revised draft reflect the consideration of comments received at the Committee's September 26, 2013 meeting as well as comments received from staff at relevant agencies who were contacted by ACUS staff because of their expertise in the areas of cross-agency collaboration and compliance with the GPRA Modernization Act of 2010. This draft is intended to facilitate the Committee's discussion at its November 6, 2013 public meeting and not to preempt the Committee's discussion and consideration of the proposed recommendations. In keeping with Conference practice, a revised draft preamble has also been included. The aim of the preamble is to explain the problem or issue the recommendation is designed to address, and the Committee should feel free to revise it as appropriate.]

[DRAFT] PREAMBLE

The GPRA Modernization Act of 2010 (GPRAMA) became law on January 4, 2011.¹ Among other things, the Act requires the Executive branch and federal agencies to develop cross-agency performance goals and specifies directives toward the advancement, use, review and measurement of cross-agency collaboration.² Cross-agency collaboration is widely viewed as a powerful means for government reform and performance improvement. Under GPRAMA, greater coordination across agencies offers the potential for the federal government to address complex policy challenges that lie inherently across agency boundaries and jurisdictions. In

¹ Pub. L. No. 111-352, 124 Stat. 3866 (2011) (codified as amended in scattered sections of 5 and 31 U.S.C.). The GPRA Modernization Act of 2010 amends the GPRA Act of 1993, Pub. L. No. 103-62, 107 Stat. 285 (1993).

² See, e.g., 5 U.S.C. § 306; 31 U.S.C. §§ 1115 – 16, 1120 – 25 (setting forth the requirements under GPRAMA).



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sum, cross-agency collaboration—when used thoughtfully for well-selected initiatives— holds great promise as a means of improving government performance, efficiency, and accountability. The effective development of these management tools may have an important role to play during the environment of constrained funding that federal agencies may face in the years ahead.

GPRAMA specifically requires the Office of Management and Budget (OMB) to develop long-term, outcome-oriented goals for a limited number of cross-cutting management improvement areas (known as Cross-Agency Priority (CAP) Goals), including: financial management; human capital management; information technology management; procurement and acquisition management; and real property management. CAP goals generally fall into two categories—mission-support goals, which focus on achieving consolidation of standard business functions and systems across agencies and mission-oriented goals, which focus on coordinating authorities to pursue shared policy goals that cross-cut agencies. These goals are to be developed in coordination with agencies and in consultation with the Congress. Accordingly, agencies must proactively engage members of Congress and their staffs to inform them about cross-agency collaborative efforts and successfully navigate congressional concerns. Similarly, when reviewing and commenting on pending legislation, officials at OMB should consider identifying areas that necessitate or allow for cross-agency collaboration, communicating with Congress regarding those areas and seeking statutory direction for such collaboration where appropriate.

The law also requires an agency to describe how it is working with other relevant agencies and organizations to achieve individual Agency Performance Goals (APGs). GPRAMA also requires the development of a federal government-wide performance plan and individual agency performance plans; quarterly progress reviews of agency goals and the use of performance information to evaluate federal government and agency progress toward their stated priority goals; and enhanced transparency through the effective operation of Performance.gov, a single website about the federal government priority goals, performance plans, quarterly review results and individual agency performance.

Within OMB, the Office of Performance and Personnel Management (OPPM) leads the effort to drive mission-focused performance gains across the federal government. In addition, the Performance Improvement Council (PIC), located within the U.S. General Services



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Administration (GSA) and composed of the designated Performance Improvement Officers (PIOs) of Federal agencies and departments, as well as senior OMB officials, collaborates to improve the performance of Federal programs and facilitates information exchange among agencies. The PIC also provides support to agency officials by aiding the coordination of cross-agency collaboration under GPRAMA.

As designated agency officials work to implement GPRAMA, they may face certain institutional constraints to effective collaboration and thus need tools to aid them in their efforts.³ Some agencies and federal officials have developed strategies to address the legal and other institutional challenges posed by such collaborative efforts. For others, obstacles to the kinds of cross-agency collaboration demanded by GPRAMA have proven frustrating and difficult to overcome. While a large body of research addresses interagency coordination or cross-agency collaboration generally,⁴ little attention has been given to exploring the legal barriers and other constraints to implementation of GPRAMA—whether real or perceived—and providing tools that agency officials may use to address such constraints.

Accordingly, the Conference commissioned the study underlying this recommendation to provide attention to the key challenges to cross-agency collaboration under GPRAMA, as well as suggesting tools for federal officials to implement the Act's collaboration and other mandates.⁵ This study examines the use of tools by officials at OMB, the PIC, senior agency officials, legal

³ See, e.g., JANE FOUNTAIN, IBM CENTER FOR THE BUSINESS OF GOVERNMENT, IMPLEMENTING CROSS AGENCY COLLABORATION: A GUIDE FOR FEDERAL MANAGERS (2013), available at <http://www.businessofgovernment.org/sites/default/files/Implementing%20Cross%20Agency%20Collaboration.pdf> (setting forth institutional constraints to cross-agency collaboration and recommending additional guidance from OMB); see also U.S. GOV'T ACCOUNTABILITY OFFICE, GAO-13-518, MANAGING FOR RESULTS: EXECUTIVE BRANCH SHOULD MORE FULLY IMPLEMENT THE GPRA MODERNIZATION ACT TO ADDRESS PRESSING GOVERNANCE CHALLENGES (2013), available at <http://www.gao.gov/assets/660/655541.pdf> (discussing some early challenges to the implementation of GPRAMA and making recommendations for improvement).

⁴ See, e.g., U.S. GOV'T ACCOUNTABILITY OFFICE, GAO-12-1022, MANAGING FOR RESULTS: KEY CONSIDERATIONS FOR IMPLEMENTING INTERAGENCY COLLABORATION MECHANISMS (2012), available at <http://www.gao.gov/assets/650/648934.pdf> (setting forth a number of constraints to cross-agency collaboration).

⁵ See JANE FOUNTAIN, THE GPRA MODERNIZATION ACT OF 2010: EXAMINING CONSTRAINTS TO, AND PROVIDING TOOLS FOR, CROSS-AGENCY COLLABORATION (SEPTEMBER 17, 2012) (draft report to the Administrative Conference of the U.S.), available at http://www.acus.gov/sites/default/files/documents/Preliminary%20Draft%20GPRAMA%20Report_Fountain_9_20_13.pdf.



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counsel, managers and others to overcome and work within institutional challenges to cross-agency collaboration.

Consistent with the Administrative Conference's statutory mandate of increasing government efficiency and enhancing transparency, the Conference issues this recommendation which suggests practices to better facilitate cross-agency collaboration under GPRAMA and to encourage wider use of tools which may advance such collaboration between federal agencies. The Recommendation covers practices and tools to better facilitate cross-agency collaboration that must be multi-faceted, must address institutional challenges on a number of fronts and must be directed to a number of actors, including OMB and the PIC, as well as agency legal counsel and other agency officials leading cross-agency collaboration efforts.

One key challenge faced by agencies and the public is access to information regarding agency planning required by GPRAMA. A recommended practice to address this challenge should be aimed at increasing transparency on Performance.gov. Another challenge agency officials face when attempting to determine which tools to use for cross-agency collaboration efforts made pursuant to CAP goals under GPRAMA is distinguishing between mission-support CAP goals (which are designed to achieve consolidation of standard business functions and systems across agencies) and mission-oriented CAP goals (which are designed to coordinate authorities to pursue shared policy goals that cross-cut agencies). A recommended practice to address this challenge should provide clarification to allow agency officials to distinguish between the two types of goals so they can determine which tools to use.

Another challenge is the varied and incomplete agency response to the GPRAMA requirement that in setting APGs, agencies include a description of the agencies, programs, activities and other organizations that are related to a particular agency goal. A recommended practice to address this challenge should focus on encouraging agencies to comply with their responsibilities under GPRAMA in this regard. Agency general counsels and other agency attorneys play a critical role in helping to foster cross-agency collaboration. Accordingly, recommended practices that promote the dissemination of information helpful to cross-agency collaboration efforts among agency attorneys are needed to address challenges presented by the lack of information sharing. Similarly, as directed and where legally permissible, attorneys



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should play a role in facilitating the sharing of information and data among agencies. Practices focused on encouraging agency attorneys to foster expertise and experience in building and sustaining cross-agency collaboration are also recommended. In addition, other agency officials who lead cross-agency collaboration efforts face a host of challenges as they try to move initiatives forward. A number of recommended best practices are offered to these officials to ensure that collaborative efforts are maximized and the goals for such initiatives are reached.

[DRAFT] RECOMMENDATION

1. *Increasing Transparency.* To increase transparency, the Office of Management and Budget (OMB), working with the Performance Improvement Council (PIC), should consider making all past and current quarterly status update reports, including those that show progress on cross-agency priority (CAP) goals, publicly available and searchable on the Performance.gov website.

2. *Improving Agency Reporting Under GPRAMA.* The PIC should work with other relevant agency officials to facilitate greater compliance with the GPRAMA requirement that agencies identify all organizations (including other agencies, programs or activities) that contribute to the achievement of an agency priority goal (APG). OMB should continue to encourage agencies to properly report their involvement with other agencies that have made contributions to progress on their priority goals, including situations in which two agencies coordinate on their respective APGs or a particular APG is related to a CAP goal.

3. *Improving Information Sharing.* To improve the sharing and harmonization of data and information systems or subsystems, the PIC, in consultation with other relevant agency officials, should identify shared systems and cyber infrastructure within agencies that may be utilized, with modifications, to further cross-agency streamlining and collaboration. When directed and whenever legally permissible, agency attorneys charged with interpreting statutory language related to data should work with agency officials to facilitate the sharing of information and data among agencies.



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4. *Facilitating Better Use of Cross-Agency Collaboration Tools.* To help agency officials better utilize the tools available for cross-agency collaboration, OMB and the PIC should:

- (a) clarify the distinction between mission-oriented goals, (which are designed to coordinate authorities to pursue shared policy goals that cross-cut agencies) and mission-supported goals (which are designed to achieve consolidation of standard business functions and systems across agencies), so that agency officials can properly identify the relevant tools to use; and
- (b) encourage agencies to have their legal counsel share, when feasible, interagency agreements, memoranda of understanding, forms, documents and other information containing specific language that has proved useful in facilitating cross-agency collaboration efforts.

5. *Enhancing the Role of Agency Legal Counsel.* To improve cross-agency collaboration, when directed and to the extent legally permissible, agency attorneys should:

- (a) work with agency staff to develop interagency agreements, memoranda forms and other documents that would facilitate the process of properly sharing personally identifiable data and information between agencies; and
- (b) aid agency officials who are leading cross-agency collaborative initiatives in determining the best way to coordinate authority, information, operations, personnel and resources among agencies within the confines of relevant legal and statutory requirements.

6. *Enhancing the Role of Other Agency Officials.* Agency officials leading cross-agency initiatives should consider undertaking the following best practices to help facilitate effective cross-agency collaboration:

- (a) set and communicate clear, compelling direction, strategy and shared goals;
- (b) utilize a variety of collaborative techniques to achieve stated goals;



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- (c) establish specific roles and responsibilities for agency staff;
- (d) develop clear decision-making processes including conflict resolution measures;
- (e) work with agency attorneys to ensure appropriate documentation of collaborative efforts is made;
- (f) work with relevant non-federal stakeholders to gain additional perspective, critique and/or support for cross-agency collaborative efforts;
- (g) work with agency attorneys to develop a plan or agreement for shared operations and shared resources that support achieving stated goals; and
- (h) build shared evaluation, analytical and measurement tools to enable the tracking, monitoring, and improvement of output and outcomes across agencies and programs engaged in collaborative efforts.

7. *Improving Training for Agency Officials.* The PIC should work with the Office of Personnel Management (OPM) and with relevant agency officials to continue to identify and refine training tools which build capacity for cross-agency collaboration among agency attorneys and other officials.